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7 *Attorneys for Defendants*

8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 Seiko Epson Corporation and Epson
11 America, Inc.,

12 Plaintiffs,

13 v.

14 InkSystem LLC, AF LLC, ART LLC,
Lucky Print LLC, Inkredible LLC LLC,
15 Andriy Kravchuk, Igor Bielov, Artem
Koshkalda, Vitalii Maliuk, and Does 2 – 10,
16 inclusive,

17 Defendants.

Case No. 3:16-cv-00524-RCJ-VPC

**WEIDE & MILLER'S MOTION TO
WITHDRAW AS COUNSEL OF
RECORD FOR DEFENDANTS ON AN
EXPEDITED BASIS**

18 Weide & Miller, Ltd. ("Weide & Miller"), pursuant to LR IA 11-6, LR IA 11-7, and
19 Nevada Rule of Professional Conduct 1.16, hereby moves for leave of the Court to withdraw
20 as attorney of record ("Motion to Withdraw" or "Motion") for Defendants InkSystem LLC, AF
21 LLC, ART LLC, Lucky Print LLC, Inkredible LLC LLC, Adriy Kravchuk, Igor Bielov, Artem
22 Koshkalda, and Vitalii Maliuk.

23 Weide & Miller respectfully requests that its Motion be considered on an **expedited**
24 **basis** since Defendants have discharged counsel and prohibited counsel from engaging in any
25 further actions on Defendants' behalf in this matter, including communicating with opposing
26 counsel or in any manner acting as counsel on behalf of such Defendants.

27 This Motion is supported by the following Memorandum of Points and Authorities, the
28 Declaration of F. Christopher Austin ("Austin Decl.") submitted in connection with Weide &

1 Miller's Motion for Leave to Appear Telephonically for Hearing Set on August 3, 2017,
2 ("Motion for Leave"; ECF No. 110), the papers and pleadings on file herein, and any argument
3 this Court may entertain at the time of any hearing on the Motion.

4 Dated this 3rd day of August, 2017.

5 Respectfully Submitted,

6 **WEIDE & MILLER, LTD.**

7
8 /s/ F. Christopher Austin

9 F. Christopher Austin, Esq.

10 Ryan Gile, Esq.

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15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 **I. INTRODUCTION AND RELEVANT HISTORY**

17 As was set forth in Weide & Miller's Motion for Leave (ECF No. 110), Defendants
18 have instructed counsel to cease all work and representation on behalf of Defendants, including
19 a specific instruction not to appear at hearings, to address the court, or to communicate with
20 opposing counsel on behalf of Defendants on the grounds that Defendants are unable to further
21 pay counsel. As such, Defendants have discharged counsel and refused to pay counsel for any
22 further representation.

23 Further, as a result of the Court's Temporary Restraining Order (ECF No. 105) and
24 Temporary Restraining Order; Order for Asset Seizure and Impoundment; Order to Show
25 Cause re Issuance of Pre-Judgment Asset Freeze (ECF No. 106), several of Defendants' bank
26 accounts, including accounts not listed in the Temporary Restraining Orders, were frozen,
27 effectively leaving Defendants without any funds to pay their attorneys in this matter. *See*
28 Austin Decl., ¶ 4, in support of Mot. for Leave. Accordingly, on the evening of August 2, 2017,
Defendants informed their counsel, Weide & Miller, that they will not be able to pay Weide &
Miller in connection with this litigation, and instructed Weide & Miller not to take any further

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actions or incur any additional attorneys fees on behalf of any of the Defendants. *Id.* at ¶ 5.

Having been discharged and informed that Defendants cannot and will not pay any costs or fees incurred by counsel in connection with this matter, Defendants are no longer able to comply with the legal retention agreement executed between counsel and Defendants, and counsel not only is expressly prohibited from representation of Defendants but also no longer has a contractual obligation to incur costs or fees in connection with such prohibited representation.

II. LEGAL BASIS FOR WITHDRAWAL

In addition to the reasons for withdrawal sought in the June 16, 2017, Motion to Withdraw as counsel for Defendants Inksystem, LLC and Luck Print, LLC (ECF No. 86), Weide & Miller now seeks leave to withdraw from its representation of Defendants because (i) such representation would violate the Rules of Professional Conduct limiting representation to that authorized by the client,¹ (ii) Weide & Miller has been discharged, (iii) Defendants have failed substantially to fulfill their obligations to Weide & Miller, and (iv) continued representation will result in an unreasonable financial burden on Weide & Miller. *See Nev. Rules Prof. Conduct*, 1.16.

With respect to terminating representation of a client, Nevada Rule of Professional Conduct 1.16² provides in pertinent part,

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

¹ *See* Rule 1.2, requiring that “a lawyer shall abide by a client’s decision concerning the objectives of representation.”

² LR IA 11-7 makes applicable the Nevada Rules of Professional conduct, stating in relevant part:

(a) An attorney admitted to practice pursuant to any of these rules shall adhere to the standards of conduct prescribed by the model Rules of Professional Conduct as adopted and amended from time to time by the Supreme Court of Nevada, except as such may be modified by this court.

(1) The representation will result in violation of the Rules of Professional Conduct or other law;

....

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(1) Withdrawal can be accomplished without material adverse effect on the interests of the client;

...

(5) The client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) The representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) Other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

Here, Weide & Miller has been expressly directed to withdraw by Defendants, have been discharged by the Defendants, instructed by Defendants to take no action, nor incur any cost or fees on behalf of Defendants, and expressly prohibited from communication on behalf of Defendants or from representing Defendants in court or before opposing counsel. Further, Defendants reaffirmed this instruction in open court and in front of the Court and opposing counsel at the August 3, 2017, hearing wherein Defendants expressly asked Mr. Austin not to make any statements or present any arguments on their behalf. Nevertheless, Weide & Miller have provided notice of this Motion to Defendants by emailing a copy of this Motion to the last known email address for each Defendant.

Because Weide & Miller is unable represent Defendants in this matter at the directive of Defendants, has been discharged by Defendants, is not being paid as required by its contract

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1 with Defendants, and will incur an unreasonable financial burden to continue representation
 2 without payment or reimbursement of costs in connection with the matter, good cause exists to
 3 grant withdrawal.

4 Furthermore, trial of this matter has not yet been set. While there are outstanding
 5 depositions scheduled for the individual Defendants, such depositions can proceed in *pro per*
 6 and Defendants have indicated a willingness to proceed in *pro per* upon the Court's granting
 7 of this Motion to Withdraw. Accordingly, neither discovery nor any trial dates will be delayed
 8 as to the individual Defendants upon the granting of this Motion. As discovery has concluded
 9 as to the corporate Defendants, granting this Motion should not unreasonably delay or extend
 10 proceedings in this matter. Accordingly, Weide & Miller's withdrawal may be accomplished
 11 in accordance with Rule 1.16(b)(1), without a material adverse effect on the interests of the
 12 Defendants under the current discovery deadline.

13 The last known contact information for each of the Defendants are as follows:

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 15 1280 Terminal Way, Ste 28,
 16 Reno, Nevada 89502
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27 AF LLC
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III. CONCLUSION

Accordingly, Weide & Miller respectfully requests that this Court permit its withdrawal as counsel of record for Defendants in this matter.

Dated this 3rd day of August, 2017.

Respectfully Submitted,

WEIDE & MILLER, LTD.

/s/ F. Christopher Austin
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of WEIDE & MILLER, LTD. and that on August 3, 2017, I served a full, true and correct copy of the foregoing **WEIDE & MILLER'S MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR DEFENDANTS ON AN EXPEDITED BASIS** via the United States District Court's CM/ECF filing system upon the following:

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and via e-mail upon the following:

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7
8
9 /s/ F. Christopher Austin
10 An employee of WEIDE & MILLER, LTD.